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Counsel for Defendants

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING

TIMOTHY MELLON, a Wyoming resident)

Plaintiff,

v.

THE INTERNATIONAL GROUP FOR  
HISTORIC AIRCRAFT RECOVERY, a  
Delaware non-profit corporation and  
RICHARD E. GILLESPIE,

Defendants.

Case No. 13 CV 118-S

**MOTION TO DISMISS COMPLAINT WITH PREJUDICE PURSUANT  
TO RULE 12(b)(6) OF THE FEDERAL RULES OF CIVIL PROCEDURE**

**COME NOW** the Defendants, The International Group for Historic Aircraft Recovery and Richard E. Gillespie (“Defendants”), by and through their attorneys, John A. Masterson and Alaina M. Stedillie of Rothgerber Johnson & Lyons LLP, and William J Carter of Dean & Carter, PLLC, and pursuant to Fed. R. Civ. P. 12(b)(6) hereby move this Court for its order dismissing with prejudice the Plaintiff’s Complaint against the Defendants. In support of this motion, the Defendants respectfully state to the Court:

1. The Plaintiff’s Complaint asserts claims for fraud, a RICO, violation, negligent misrepresentation, and negligence. The Plaintiff alleges he suffered economic damages as a result of Defendants’ actions and seeks recovery for them.

2. The Defendants move to dismiss the Complaint against them pursuant to Fed. R. Civ. P. 12(b)(6) because the claims asserted therein fail under the pleading standards established and required by Rule 8(a) and Rule 9(b) of the Federal Rules of Civil Procedure, as well as established court precedent.

3. The Defendants further move to dismiss the Complaint against them pursuant to the application of Wyoming’s “Economic Loss Rule,” which precludes tort recovery in the absence of personal or property injury.

4. The Defendants further move to dismiss the Complaint against them due to the patent implausibility of Plaintiff’s allegations.

5. In support of their motion, the Defendants submit and file concurrently herewith their *Memorandum in Support of Motion to Dismiss Complaint with Prejudice Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure*, setting out more fully the grounds for the relief

requested. The Defendants also submit their Proposed Findings of Fact and Conclusions of Law, as well as a proposed order in support of their motion.

**WHEREFORE**, the Defendants respectfully request the Court enter its order dismissing with prejudice the Plaintiff's Complaint against them, and for further and other relief as the Court may deem just and proper.

**DATED** this 22nd day of July, 2013.

THE INTERNATIONAL GROUP FOR  
HISTORIC AIRCRAFT RECOVERY and  
RICHARD E. GILLESPIE

By /s/  
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## Counsel for Defendants

## CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of July, 2013, a true and correct copy of the foregoing was electronically served upon all parties registered as CM/ECF users in this case via the Court's CM/ECF electronic mail service including the following:

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